

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA

Larry James Tyler,) Civil Action No. 9:17-3270-AMQ-BM
Plaintiff,)
vs.)
Toney Chavis; John Doe; James Bogle,)
Jr.,)
Defendants.)
ORDER

Plaintiff Larry James Tyler (“Plaintiff”), proceeding *pro se*, brought this action pursuant to 42 U.S.C. § 1983 alleging inadequate dental care, inadequate medical care, free exercise of religion, lack of nutritionally adequate food, inadequate ventilation and temperature, denial of access to courts, and denial of reading material. (ECF No. 1.) The matter is before the Court for review of the Report and Recommendation (“Report”) of United States Magistrate Judge Bristow Marchant recommending that Plaintiff’s Motions for Class Certification (ECF Nos. 4 and 14) and Motions for Appointment of Counsel (ECF Nos. 3, 11, 13, and 15) be denied. The Report was issued in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B) for the District of South Carolina.

Magistrate Judge Marchant issued the Report on March 7, 2018. (ECF No. 21.) The Magistrate Judge advised Plaintiff of the right to file objections to the Report, the procedures and requirements for filing objections to the Report, and the serious consequences if he failed to do so. (ECF No. 21 at 11.) As of the date of this Order, Plaintiff has filed no objections and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility for making a final

determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court may accept, reject, or modify, in whole or in part, the Report or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). Furthermore, failure to file specific written objections to the Report results in a party’s waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); see *Wells v. Shriners Hosp.*, 109 F.3d 198, 200 (4th Cir. 1997) (“[t]he Supreme Court has authorized the waiver rule that we enforce... ‘[A] court of appeals may adopt a rule conditioning appeal, when taken from a district court judgment that adopts a magistrate’s recommendation, upon the filing of objections with the district court identifying those issues on which further review is desired.’”) (citing *Thomas v. Arn*, 474 U.S. 140, 155 (1985)).

After a thorough review of the record, the applicable law, and the Report, the Court finds the Magistrate Judge’s recommendation to be proper and has determined that there is no clear error on the face of the record. Accordingly, the Court adopts the recommendation and incorporates the Report herein by specific reference. Plaintiff’s Motions for Class Certification (ECF Nos. 4 and 14) and Motions for Appointment of Counsel (ECF Nos. 3,11,13, and 15) are hereby DENIED.

IT IS SO ORDERED.

/s/ A. Marvin Quattlebaum, Jr.
United States District Judge

April 30, 2018
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.